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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/765,914	01/18/01	GAREIS	G 6500-1583.2
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MMC1/0621

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EXAMINER

MAYO III, W

ART UNIT	PAPER NUMBER
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2831

DATE MAILED:

06/21/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/765,914

Applicant(s)

GAREIS ET AL.

Examiner

William H. Mayo III

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL.
- 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claims ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

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Priority

1. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 120 as follows:
2. An application in which the benefits of an earlier application are desired must contain a specific reference to the prior application(s) in the first sentence of the specification (37 CFR 1.78). Specifically, both applications 09/047,272, now patent 6,222,130 and 08/629,509 must be mentioned in the first sentence.

Information Disclosure Statement

3. The information disclosure statement filed January 18, 2001 has been submitted for consideration by the Office. It has been placed in the application file and the information referred to therein has been considered.

Claim Objections

4. Claims 6-7 and 9-10 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claims 6-7 are dependent upon cancelled claims 2 and 3, which is improper and fails to further limit the claimed subject matter. Claims 9-10 are dependent upon rejected claims 6-7 and therefore are also rejected. Based on the repetition of claimed limitations of 6-7 and 9-10, the examiner will not address these claims in the prior art rejection.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

6. Claim 4 is rejected under 35 U.S.C. 102(e) as being anticipated by Prudhon (Pat Num. 5,952,615). Prudhon discloses a data cable (Figs 1-3) for transmitting signals (Col. 1, lines 5-11). Specifically, with respect to claim 4, Prudhon discloses a data cable (Fig 3) comprising an interior support (30) extending along a longitudinal length of the cable (Fig 3), a first material (31) forming part of the interior support (30), a second material (32) forming a part of the interior support (30), wherein the first material (31) is different from the second material (32, Col. 3, lines 9-12), a central region (center of support) forming part of the interior support (30) and extending longitudinally along the length of the interior support (30), a plurality of prongs (11, i.e. fins Fig 1) forming part of the interior support (30) and extending along a longitudinal length of the central region (center of support) and outward from the central region (center of support, Col. 2, lines 54-58), wherein the arrangement of the plurality of prongs (11) are adjacent with at least two other prongs (11) wherein the arrangement defines a plurality of pairs of adjacent prongs (left and top prong, right and bottom prong), and a groove (not numbered) defined by adjacent prongs (11) wherein the groove (not numbered) extends along a

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longitudinal length of the interior support (30) wherein the plurality of pairs of adjacent prongs (left and top prong, right and bottom prong) define a plurality of grooves (between the prongs), wherein insulated conductors (1-4) are disposed in the grooves (not numbered) and wherein the second material (32) has an outer surface (Fig 3) that forms at least a portion of the plurality of prongs (11) and defines a portion of the grooves (not numbered), and wherein the second material (32) provides a means for shielding (Col. 2, lines 8-17).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 5, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Prudhon (Pat Num. 5,952,615) in view of Arroyo et al (Pat Num. 4,807,962). ~~§~~ *PR 6/18/01*

Prudhon discloses a data cable (Figs 1-3) for transmitting signals (Col. 1, lines 5-11). Specifically, with respect to claim 1, Prudhon discloses a data cable (Fig 3) comprising a plurality of insulated signal transmission conductors (1-4) and an interior support (30 i.e. rod) wherein the interior support (30) comprises a longitudinally extending central portion (center of rod) and a plurality of splines (located at 31) radially extending from the central portion (center of rod) along the length of the central portion (center of rod) wherein the base portion of the spline (located at 31) forms part of the central portion

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(center of rod) and the splines (located at 31) have the same radius (i.e. same size, Fig 3), wherein the spline (located at 31) is adjacent to two other splines (Fig 3), a shield (13) supported by the splines (located at 31) wherein the shield (13) and the splines (located at 31) define a plurality of at least four conductor compartments (not numbered), wherein the signal transmission conductors (1-4) are disposed in each of the said compartments (not numbered). With respect to claim 5, Prudhon discloses that the interior support (30) comprises a first material (31) and a second material (32) different from the first material (32, Col. 3, lines 9-12), wherein the second material (32) has an outer surface (Fig 3) that forms at least a portion of the plurality of splines (located at 31) and provides a means for shielding (Col. 2, lines 8-17). With respect to claim ⁸~~6~~, Prudhon discloses that the second material (32) may be a foil shield (Col. 2, lines 20-25). *DR 6/18/01*

However, Prudhon doesn't necessarily disclose central portion being cylindrical (claim 1), nor the spline being triangular (claim 1).

Arroyo teaches a high performance data cable (Figs 1-2 & 4-5, fiber optic cable) for use in buildings and offices (Figs 6 & 7). Specifically, with respect to claim 1, Arroyo teaches a cable (Fig 2) comprising a cylindrical longitudinally extending central portion (24) and a plurality of splines (26), wherein the splines (26) have a triangular cross section with the base of the triangle forming part of the central portion (Figs 2 & 5).

With respect to claim 1, it would have been obvious to one having ordinary skill in the art of cables at the time the invention was made to modify the interior support of Prudhon to comprise the interior support shape as taught by Arroyo because Arroyo

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teaches that such a configuration provides a data cable with excellent mechanical properties (Col. 4, lines 30-33) and since it has been held that a change in form cannot sustain patentability where involved is only extended application of obvious attributes from a prior art. *In re Span-Deck Inc. vs. Fab-Con Inc. (CA 8, 1982) 215 USPQ 835.*

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. They are Tighe, Jr. (Pat Num. 4,719,319), Tessier et al (Pat Num. 5,132,488), Boucino et al (Pat Num. 5,969,295), Grandy et al (Pat Num. 6,150,612), and Hardie et al (Pat Num. 5,574,250), all of which disclose data cables with filler materials.

Communication

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Mayo III whose telephone number is (703) 306-9061. The examiner can normally be reached on M-F 8:30 a. m.-6:00 p.m.(alternating Friday's off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on (703) 308-3682. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3432 for regular communications and (703) 305-1341 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

WHM III
June 17, 2001

Dean A. Reichard 6/18/01
Dean A. Reichard
Primary Examiner